

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ADVANCED CARDIOVASCULAR)	
SYSTEMS, INC. and GUIDANT SALES)	
CORPORATION,)	
)	
Plaintiffs,)	C.A. No. 98-80 (SLR)
)	(Consolidated with C.A.
v.)	No. 98-314 (SLR) and C.A.
)	No. 98-316(SLR))
MEDTRONIC VASCULAR, INC. and)	
MEDTRONIC USA, INC.,)	
)	
Defendants.)	

**MEDTRONIC'S SUPPLEMENTAL SUBMISSION
PURSUANT TO D. DEL. L.R. 7.1.2(c)
PROVIDING THE FOUR DECISIONS OF THE U.S. PATENT AND
TRADEMARK OFFICE, GRANTING MEDTRONIC'S REQUESTS FOR
REEXAMINATION OF ALL PATENTS ASSERTED BY PLAINTIFF**

Pursuant to D. Del. L.R. 7.1.2(c), defendants Medtronic Vascular, Inc. and Medtronic USA, Inc. ("Medtronic") submit for the Court's consideration four recent decisions by the United States Patent and Trademark Office ("USPTO") granting Medtronic's Requests for Reexamination of all four of the patents asserted by plaintiffs: U.S. Patent Nos. 5,515,154 ("the '154"), 6,066,167 ("the '167"), 6,066,168 ("the '168"), and 6,432,133 ("the '133"). See Exhibits 1-4.

A Request for Reexamination of the '154 patent was filed with the USPTO on January 17, 2006 and the other three Requests were filed on January 23, 2006. All four of these requests were granted on February 14, 2006. Thus, the USPTO has now determined that there is "a substantial new question of patentability" affecting the adjudicated claims of all of the patents in suit and has ordered "reexamination for resolution of the question[s]." 35 U.S.C. §304.

In the unpublished decision of *Standard Havens Prods. Inc. v. Gencor Ind. Inc.*, 27 USPQ2d 1959 (Fed. Cir. 1993)(copy attached as Exh. 5), the Federal Circuit held that reexamination can have a substantial effect on an infringement suit and ruled that the damages proceedings and the injunction should have been stayed “until the reexamination decision becomes final.” *Id.* at 1960.

Medtronic therefore requests that the Court consider the implications of these recent USPTO decisions as it decides the pending post-trial motions.

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February 21, 2006

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on February 21, 2006 I electronically filed the foregoing with the Clerk of the Court using CM/ECF which will send notification of such filing to Frederick L. Cottrell, III.

I further certify that on February 21, 2006 I served copies of the foregoing to the following counsel in the manner indicated:

By Hand

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